

[ORAL ARGUMENT NOT YET SCHEDULED]
No. 15-5041
(Consolidated with Nos. 15-5043, 15-5060, and 15-5061)

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

HUMANE SOCIETY OF THE UNITED STATES, et al.,
Plaintiffs-Appellees,

v.

SALLY JEWELL, SECRETARY OF THE INTERIOR, et al.;
U.S. SPORTSMEN'S ALLIANCE FOUNDATION, et al., and
STATE OF WISCONSIN, et al.,
Defendants-Appellants.

On Appeal from the United States District Court
for the District of Columbia

**MOTION BY CENTER FOR BIOLOGICAL DIVERSITY
FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF
IN SUPPORT OF PLAINTIFFS-APPELLEES
HUMANE SOCIETY OF THE UNITED STATES, ET AL.
SEEKING TO UPHOLD THE DISTRICT COURT**

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, *Amicus Curiae* Center for Biological Diversity certifies that the Center for Biological Diversity is a non-profit corporation under the laws of California, registered with the Internal Revenue Service as a 501(c)(3) organization. This organization does not have stock, nor does it have parent companies, subsidiaries, or affiliates that have issued shares to the public.

Respectfully submitted this 17th day of February 2016,

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I. INTRODUCTION

The Center for Biological Diversity (“the Center”) respectfully requests leave to file the proposed *amicus curiae* brief, attached to this motion, in support of Plaintiffs-Appellees The Humane Society of the United States, et al., (collectively, “The HSUS”), seeking to uphold the district court’s decision. The Center is a national environmental advocacy organization with more than 990,000 members and supporters that works to protect the nation’s biodiversity through advocacy, policy, and litigation. The Center has extensive experience with the federal agencies’ administration of the Endangered Species Act, 16 U.S.C. § 1531, *et seq.* (“ESA”).

Under D.C. Circuit Rule 29(a), an *amicus curiae* brief “must avoid repetition of facts or legal arguments made in the principal . . . brief and focus on points not made or adequately elaborated upon in the principal brief.” Circuit Rule 29(a); *see also* Fed. R. App. P. 29, advisory committee note to 1998 amendment (“An *amicus curiae* brief which brings relevant matter to the attention of the Court that has not already been brought to its attention by the parties is of considerable help to the Court.”). The proposed brief respects this guidance by focusing on issues not fully covered in the principal brief filed by The HSUS.

II. INTERESTS AND PERSPECTIVES OF PROPOSED *AMICUS CURIAE*

This case presents issues of great importance to the Center and others concerned with how the U.S. Fish and Wildlife Service (“the Service”) implements the ESA to conserve and recover the nation’s most endangered wildlife.

Specifically, this case concerns the lawfulness of the decision by the Service to remove protections from gray wolves in the western Great Lakes region by simultaneously creating and delisting a “Western Great Lakes Distinct Population Segment.” 76 Fed. Reg. 81,666 (Dec. 28, 2011).

The Center submits the proposed *amicus* brief to: 1) uphold protections for wolves in the western Great Lakes region and thereby promote recovery of wolves across the lower 48 States, and 2) conserve the integrity of the ESA from the unreasonable interpretation put forth by the Service, which would reduce the Act’s effectiveness in conserving rare wildlife across the United States.

As the district court found, and as explained in the Center’s *amicus* brief, Congress intended that the Service’s authority to designate “distinct population segments” be used sparingly and only when needed to protect and recover certain vulnerable populations of species before large-scale or species-wide decline occurs, not to remove protections from a recovering population of a species that remains threatened with extinction. This issue is central to the disposition of the appeal.

As an environmental advocacy organization with extensive experience with the ESA and this specific issue, the Center is well-positioned to assist the Court in understanding what the Service has done in this case, the historical context of its actions, and the dangerous precedent that it will set for potentially hundreds of species if it is allowed to stand. A detailed statement of the mission and interests of the Center are included in the proposed *amicus* brief. The fact that Defendants will have a total of ten briefs submitted in support of reversal also weighs towards allowing this *amicus* brief in support of the one brief filed by Plaintiffs-Appellees.

The Center's Counsel contacted counsel for the parties to determine if they would consent to the filing of an *amicus curiae* brief by the Center. Plaintiffs-Appellees The HSUS, et al., consent to the motion. Federal Defendants Appellants do not object to the motion. State Intervenor Defendants, including the State of Michigan, Michigan Department of Natural Resources, State of Wisconsin, and Wisconsin Department of Natural Resources also do not object. The private Intervenor Defendants, namely the Hunter Conservation Coalition, did not respond by the time this motion was filed.

CONCLUSION

The Center therefore respectfully asks the Court for leave to file its *amicus* brief, which will provide the Court with useful information relevant to the disposition of this appeal.

Respectfully submitted on this 17th day of February, 2016,

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CERTIFICATE OF SERVICE

The undersigned certifies that the preceding document (Motion by Center for Biological Diversity for Leave to File an *Amicus Curiae* Brief in Support of Plaintiffs-Appellees Humane Society of the United States, et al., Seeking to Uphold the District Court) was electronically filed with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit on February 17, 2016, by utilizing the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

Respectfully submitted this 17th day of February 2016,

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